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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,817	10/23/2003	Scott Ternovits	010394-9088-00	6307

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EXAMINER

HOGUE, GARY CHAPMAN

ART UNIT PAPER NUMBER

3611

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/691,817	Applicant(s) TERNOVITS ET AL.	
	Examiner Gary C. Hoge	Art Unit 3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9, 11-19 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18, 19 and 26-30 is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-14, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kellog (1,583,843).

Kellog discloses a portable display device comprising a first panel F; a second panel F; a third panel C coupled between the first panel and the second panel such that the first panel is movably coupled to the third panel and the second panel is movably coupled to the third panel, each of the first, second, and third panels having a front surface and a rear surface, the first and second panels movable between a manufactured position (Fig. 2) in which the first and second panels are substantially coplanar with the third panel, and an operative position (Fig. 1) in which the first and second panels are angled with respect to the third panel; and a footer E integral with and movably coupled to the third panel, the footer being oblique to the third panel when the first and second panels are in the operative position (see Fig. 3), the footer E including a top edge 2 coupled to the third panel C and a bottom edge 7 spaced from the third panel C when the footer E is oblique to the third panel C.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schrock (2,718,091) in view of Taub (3,589,046).

See Figs. 3-6. Schrock discloses a portable display device comprising a first panel 14 having a front surface and a rear surface; a second panel 13 movably coupled to the first panel and having a front surface and a rear surface, the first and second panels movable between a manufactured position (Fig. 4) in which the first and second panels are substantially coplanar, and an operative position (Fig. 5) in which the first and second panels are angled with respect to one another; and a marquee surface 17 integral with the first and second panels such that when the first and second panels are in the manufactured position, the marquee surface is substantially coplanar with the first and second panels, and when the first and second panels are in the operative position, the marquee surface can be pushed out of the plane and project away from the first and second panels; wherein at least a portion of the marquee surface is positioned below a top of the display device when the marquee surface is in the manufactured position. However,

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Schrock does not disclose a footer integral with and movably coupled to one of the first and second panels. Taub teaches that it was known in the art to provide footers **24a**, **24b** that are integral with and movably coupled to first and second panels of a folding display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding display disclosed by Schrock with footers, as taught by Taub, in order to improve the stability of the display.

Regarding claim 2, Schrock discloses a third panel **10**.

Regarding claim 3, see Fig. 6.

Regarding claims 5 and 6, Schrock discloses deforming an area by scoring it to form fold lines.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schrock (2,718,091) in view of Schirer (5,960,848).

Schrock discloses the invention substantially as claimed, as set forth above. However, the edges of the panels disclosed by Schrock are not curved. Schirer teaches that it was known in the art to curve the edges of cardboard panels, in order to protect users from being jabbed by a sharp edge. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the edges of the cardboard panels disclosed by Schrock rounded, as taught by Schirer, in order to protect users from being jabbed by a sharp edge. Further, it is noted that in Applicant's invention, the curvature of the panels is purely an ornamental feature, and it has been held that matters relating to ornamentation only, and having no mechanical function, cannot be relied on where claims are not directed to design but are structural claims. *In re Seid*, 73 USPQ 431.

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7. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellog (1,583,843) in view of Taub (3,589,046).

Kellog discloses the invention substantially as claimed, as set forth above. However, Kellog does not disclose bottom braces integral with and movably coupled to the first and second panels. Taub teaches that it was known in the art to provide bottom braces **24a**, **24b** that are integral with and movably coupled to first and second panels of a folding display. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the folding display disclosed by Schrock with footers, as taught by Taub, in order to improve the stability of the display.

*Allowable Subject Matter*

8. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 18, 19 and 26-30 are allowed.

*Response to Arguments*

10. Applicant's arguments filed October 20, 2006 have been fully considered but they are not persuasive.

Applicants state that "the Examiner has shown no motivation to combine the [Schrock and Taub] references." On the contrary, the motivation was set forth in the statement of the rejection. Taub teaches that it was known in the art to stabilize a panel structure by incorporating footer panels, and it would have been obvious to use such footer panels on the panel structure disclosed by Schrock, either in addition to, or instead of the wooden blocks Schrock uses for

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stability. Applicants further allege that “adding the footers of Taub to the stage of Schrock, as suggested by the Examiner, would detract from the visual appearance from [sic] the stage.” This is a matter of opinion, but it seems that the footers of Taub would no more detract from the appearance of the stage than the wooden blocks Shrock discloses. Indeed, if the footers were oriented away from the audience, they would be hidden by the stage and wouldn’t detract from its appearance at all.

Regarding Kellogg, Applicants state that “the intermediate member **E** is, in one position, oblique to the third panel **C** with the bottom of the intermediate member **E** coupled to the third panel **C** and the top edge of the intermediate member **E** being spaced from the third panel **C**.” This depends, of course, on which edge we call “top” and which edge we call “bottom.” In Fig. 2, panel **E** is seen to have a top edge **2** that is coupled to the third panel **C** and a bottom edge **7** that is spaced apart from the third panel **C**. Rotating the panel **E** to the position shown in Fig. 3 does not necessarily change this designation.

### *Conclusion*

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

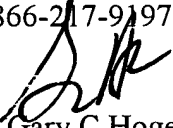
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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary C. Hoge whose telephone number is (571) 272-6645. The examiner can normally be reached on 5-4-9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gary C Hoge  
Primary Examiner  
Art Unit 3611

gch